

2572. Adulteration and misbranding of Neidig Chiro Antiseptic Powder. U. S. v. Arthur M. Neidig (E. S. Neidig). Pleas of nolo contendere. Sentence suspended and defendant placed on probation for 3 years. (F. D. C. No. 24264. Sample No. 70169-H.)

INFORMATION FILED: June 17, 1948, Middle District of Pennsylvania, against Arthur M. Neidig, trading as E. S. Neidig at Sunbury, Pa.

ALLEGED SHIPMENT: On or about July 24, 1947, from the State of Pennsylvania into the State of Michigan.

PRODUCT: Analysis disclosed that the product consisted of 30.5 percent of dehydrated sodium borate, 47.6 percent of anhydrous sodium carbonate, and 21.9 percent of water of crystallization, and that the product failed to exhibit either inhibitory antiseptic, germicidal, or fungicidal properties.

NATURE OF CHARGE: Adulteration Section 501 (c), the strength of the article differed from and its quality fell below that which it was represented to possess since it was represented to be an antiseptic and it was not an antiseptic.

Misbranding, Section 502 (a), certain statements in the labeling of the article were false and misleading since they represented and suggested that the article was an antiseptic; that it would be efficacious in the cure, mitigation, and treatment of coughs, sore throat, dyspepsia, indigestion, stomach troubles, nasal catarrh, injuries and infections of the skin, psoriasis, hives, shingles, cuts, scalds, burns, itch, ringworm, athlete's foot, bedsores, barber's itch, erysipelas, eczema, dandruff, boils, abscesses, carbuncles, dangerous wounds by splinters, firearms, and rusty nails, dog and snake bites, open sores, ulcers, gastric ulcers, arthritis, rheumatism, infections of the alimentary canal, acid indigestion, gastritis, intestinal catarrh, diarrhea, sugar diabetes, yellow jaundice, colitis, convulsions, amoebic dysentery, gastrointestinal fermentation, ptomaine poisoning, gall trouble, typhoid fever, inflamed eyes and sties, running ear, nose bleed, infections of the mucous membranes, croup, hoarseness, hicoughs, tonsillitis, diphtheria, quinsy, tuberculosis, septic sore throat, colds, tuberculosis of the lungs, asthma, bronchitis, bronchial catarrh, laryngitis, influenza, pneumonia, hay fever, babies' troubles, sore mouth, irritations, sores, fever, constipation, leucorrhea, piles, hemorrhoids, fistula, fissures, eating cancers, appendicitis, disease of the prostate gland, pyorrhea, enlarged adenoids, small goiters, sinus infection, proud flesh, astigmatism, cataract on the eyes, blood poison, fibroid tumors, cancers, worms, lump in breast, cancer of eye, cancer of rectum, sore foot, swollen throat, sore leg, chronic colitis, high fever, vaginal ulcers, gangrene, diabetes, dropsy, scarlet fever, flooding spells, bowel trouble, inward trouble, hemorrhages, itching of vagina, infection, gallstones, kidney stones, tape worm, protruding piles, cyst, bleeding piles, mastoids, cataracts, infected eye, discharge from ears, sore eyes, St. Vitus's dance, prostate gland trouble, bloat, infected tonsils, toothache, blisters, flu, upset stomach, cauliflower cancer, blood clot, adhesions, and cold on the chest; that the article would be efficacious to sterilize the hands, face, and mouth, and to destroy all bacteria and rid mucus of the germs it contains; that it could be safely eaten and drunk; that it would act on disease the same as soap acts on dirt; that it would be efficacious to destroy bacterial life, the cause of diseases such as T. B.; that it would be efficacious to keep the vaginal tract healthy, to destroy any infection from a mosquito bite to social disease, to prevent and protect against disease and infections, to prevent pus formation and diphtheria, and to break up any sore throat overnight and any fever in one hour; and that it would be efficacious to keep the blood stream pure. The article was not an

antiseptic; it could not be safely eaten and drunk and it would not be efficacious for the purposes represented.

DISPOSITION: January 12, 1949. A plea of nolo contendere having been entered, the court suspended the imposition of sentence and placed the defendant on probation for 5 years, conditioned that he discontinue all misbranding of the article, seek the review and advice of the Food and Drug Administration, and refrain from any label, labeling, or claims regarding the article which would be contrary to the law, regulations, and opinions of the Food and Drug Administration.

2573. Alleged violation of injunction. U. S. v. Dean Rubber Co., et al. Defendant judged not guilty. (Inj. No. 3.)

INFORMATION FILED: On June 7, 1946, Western District of Missouri, against the Dean Rubber Co., a corporation, North Kansas City, Mo., and against Wilbur J. Dean, Charles H. Fry, Beulah V. Dean, Ralph A. Briant, Carl Wormington, Morris J. Pollock, Justine Woodard, Ruth Marie Symons, W. R. Adelsperger, Claiborne Dean, Alpha Dean, Archie Dean, Viola Bausin, and Harry Custer, copartners, doing business as the Dean Rubber Co.; amended informations filed August 6 and October 28, 1946, and March 11, 1947.

ALLEGED VIOLATION: The first information alleged that on September 11, 1940, a permanent injunction, as reported in notices of judgment on drugs and devices, No. 409, had been entered enjoining the Dean Rubber Co., its officers, agents, and all persons then or thereafter acting by or through them, from distributing in interstate commerce any *prophylactics* containing holes or which might subsequently acquire holes; that at that time, one Wilbur J. Dean, was and continued to be president and acting manager of the Dean Rubber Co., a corporation; that on or about October 21, 1944, the assets and business of the corporation were transferred to Wilbur J. Dean, Beulah V. Dean, Charles H. Fry, Ralph A. Briant, Carl Wormington, Morris J. Pollock, Justine Woodard, Ruth Marie Symons, W. R. Adelsperger, Claiborne Dean, Alpha Dean, Archie Dean, Viola Bausin, and Harry Custer, who since that time had operated as copartners under the name of Dean Rubber Co.; that the corporation, Wilbur J. Dean, and each of the other defendants had actual knowledge of the contents of the decree for permanent injunction; that in willful violation of the injunction and in contempt of the court, the defendants had on or about September 30, October 25, and December 14, 1944, and on or about January 9 and 30, February 2, 6, 14, and 17, June 4 and 9, and July 6 and 29, 1945, willfully, unlawfully, contumaciously, and contemptuously caused to be shipped in interstate commerce various quantities of *prophylactics* which were adulterated under Section 501 (c) and misbranded under Section 502 (a), by the reason of containing holes.

DISPOSITION: Upon the filing of the original information on June 7, 1946, an order to show cause why defendants should not be held in contempt of court was issued. Thereafter, the first amended information was filed to include additional violative shipments which were caused to be made by the defendant on or about April 14 and 18 and July 13, 1944, October 17 and December 6 and 7, 1945, and January 22 and 23, February 6, and March 15, 1946. A motion for dismissal of this amended information was then filed on behalf of the defendants, and on October 7, 1946, the court handed down the following opinion in regard to such motion:

RIDGE, District Judge: "The amended information filed herein alleges that on September 11, 1940, a permanent injunction was entered against the Dean